

REMARKS

In response to the Office Action dated December 15, 2003, Applicant has amended the claims.

I. The incorporation by reference to the foreign priority application is proper according to MPEP 608.01(p) at section "B".

Applicants respectfully note that incorporation by reference of a foreign priority application is a common practice and it is permissible, see MPEP 608.01(p) "B". Applicant checked this rule with Office of the Commissioner of Patents at the USPTO, specifically, with editor of the MPEP, Ms. Greenlief, so she should respectfully be consulted by the Examiner if the Examiner believes that section B does not apply because it is somewhat unclear from the wording of the section. She stated that she will edit the "B" section to make it more clear in the future.

Also, the MPEP at 2163.07(a) has been recently amended in the February 2003 version and indicates that incorporation by reference of a foreign priority application is permitted in order to correct obvious errors, i.e., "This prohibition does not apply where the U.S. application explicitly incorporates the foreign priority document by reference."

Therefore, applicants respectfully request that this issue be clarified at the USPTO before the applicants take any action.

II. Claims 5 and 8 have been amended to alleviate the confusing language issue.

No new matter has been added. Applicants respectfully thank the Examiner for noting these issues.

III. The §112 issues have been respectfully corrected regarding claim 11.

The Examiner is correct that the laying angle is parallel (0°) or vertical (90°) to a main axis of the preform. Claim 11 has been amended accordingly:

11. (Currently Amended) The process according to claim 10, wherein the fiber layers are generated with a [[0°/90°]] 0° or 90° laying angle to a main axis of the preform.

IV. The anticipation rejections in view of Hüttinger, Independent claim 1 has been amended to be greater than 1100° C "adjusting the process temperature to > 1100°C. "

Independent claim 1 has been amended to make it more clear that the temperature range of 900° to 1100° C cited in US 6,197,374 and WO 98/211163 (disclosed in Hüttinger) does not anticipate independent claim 1 which claims a greater than 1100°C temperature. In fact, one point of the invention is that the higher temperature range of greater than 1100°C was not believed to be a permissible parameter in the art, see the studies discussed in the Background section, at page 2, lines 9-19.

Therefore, the rejection is respectfully traversed. The remaining claims depend from claim 1 and are therefore also allowable.

It is noted that the Examiner's colleague, Mr. Meeks, examined and allowed the Hüttinger reference patent, so he could also be consulted if that is helpful in any way.

The following points are also noted for the Examiner's convenience.

Hüttinger (WO 98/211163 and US 6,197,374 B1) does not contain any enabling or teaching for the infiltration with silicon carbide (SiC) because the disclosure given is only specific for the carbon deposition process (see embodiments 1-8 at Col.17-18 of 6,197,374 and col. 8, lines 9-34). The carbon process details are not directly applicable to the SiC process due to the different nature of the basic chemical process of the SiC deposition. For example, specific disclosure about the process pressure for the SiC-separation process are completely missing in the citations of Hüttinger.

The process pressures mentioned in '374 can only be applied to the deposition of carbon and, moreover are lower than those in claim 1. The temperature range is 900 to 1100⁰C in '374 for the Sic. It is the nature of the inventive method to employ conditions which enable the fiber preform to be infiltrated with Sic as quickly as possible. These conditions are, for example, a temperature as high as possible and a pressure as high as possible. This is the opposite of Huttinger's teachings.

V. The obviousness rejection based on the combination of Huttinger and Murphy.

First, it is respectfully noted that as the primary reference Huttinger is no longer teaching the claimed limitations of claim 1 (see IV. above) that as a basic matter, the combination of Huttinger with Murphy is now deficient and does not teach all the limitations of claim 1. Therefore, the obviousness rejection is respectfully traversed.

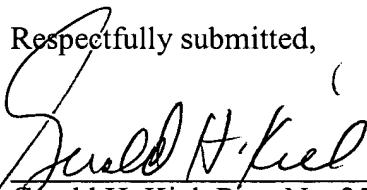
Second, the applicants respectfully provide the following observations.

The Office Action states that Murphy is cited for teaching how the preform is made because the primary reference Huttinger is silent on that feature. However, Murphy is not technically compatible with what is claimed in claim 1 because to form a preform at the high temperature of claim 1 would melt the preforms of Murphy or Huttinger and not result in the invention of present claim 1. Specifically, Murphy et al (US 4,407,885), describes fibrous preforms of mixed fabric in which part of the fibers consists of thermoplastic material and is used for manufacturing composite materials with a plastic matrix. The bonding of layers is achieved by melting the thermoplastic fibers. This preform method is impossible with respect to the method according to the invention because in the present invention, high temperature processes are used which would lead to the destruction of the fiber preform. The high temperature treatment in the course of the product manufacture according to the invention would lead to the complete decomposition of the thermo plastic components to gaseous products and, therefore, to the decay of the structure.

VI. Conclusion

In light of the *FESTO* cases, no claim amendment or argument made herein was related to the statutory requirements of patentability unless expressly stated herein. No claim amendment or argument made was for the purpose of narrowing the scope of any claim unless Applicant has explicitly stated that the argument is "narrowing." Thus, the amendments herein were made for no more than a "tangential relation" to any equivalents unless explicitly stated that they were not a "tangential relation" reason for amendment or argument. Therefore, it is respectfully requested that all of the claims be reconsidered and allowed.

Respectfully submitted,


Gerald H. Kiel, Reg. No. 25,116
Reed Smith LLP
599 Lexington Avenue
New York, New York 10022
Telephone No.: 212-521-5400
Facsimile No: 212-521-5450